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#6/Response

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on November 7, 2001

Name of Rep. Michael Y. Epstein

Signature Michael Y. Epstein

date 11/7/01

s/n 09/435,668

Goossen 80

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Goossen
Serial Number : 09/435,668
For : TIN OXIDE ADHESION LAYER FOR METAL-DIELECTRIC MIRRORS
Filed : 11/8/99
Examiner : Jackson, C.
Art Unit : 2881

RESPONSE TO FINAL REJECTION

Hon. Commissioner of Patents and Trademarks
Washington, D. C. 20231

Sir:

This is a partial response to the final rejection mailed 10/3/01. With respect, it appears that the finality of the rejection is premature and that such finality should be withdrawn. While the present response is not a full response to the pending Office action, it is submitted that this partial response is appropriate in view of the significant procedural problems raised

by the issuance of a final rejection. How applicant considers the rejection and how applicant might respond thereto, e.g., by presenting new claims to previously unclaimed subject matter, is directly affected by whether or not the pending action is a final rejection.

The Examiner justifies the finality of the rejection by explaining that applicant's "amendment necessitated the new ground(s) of rejection...." With respect, this is not quite correct. As clearly noted at the bottom of page 3 of applicant's amendment (filed 09 July 2001), pending Claim 6 is identical to originally filed Claim 5, but in independent form. Thus, at least concerning Claim 6, no amendment was made to the originally claimed subject matter and the present rejection of Claim 6, for reasons other than the prior rejection of Claim 5, raises a new issue not necessitated by applicant's amendment. The MPEP (8th edition) explains [end of second paragraph of section 706.07(a)] that an action should not be made final for a rejection on newly cited prior art of any claim not amended even if other claims are amended.

Withdrawal of the finality of the pending Office action is requested. Should this be done, a re-dating of the effective date of the action is also requested.

A prompt response is requested.

Respectfully submitted



Michael Y. Epstein
Attorney for Applicants
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